

STORAGE NAME: h0571s2z.jo.doc
DATE: October 17, 2002

****AS PASSED BY THE LEGISLATURE****
VETOED BY THE GOVERNOR

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIAL OVERSIGHT
FINAL ANALYSIS**

BILL #: CS/CS/HB 571, 1ST ENGROSSED (SUBSTANTIALLY SIMILAR TO CS/SB 1554, 1ST ENGROSSED)

RELATING TO: Civil Penalties

SPONSOR(S): Council for Smarter Government, Committee on Criminal Justice Appropriations, and Representatives Ross and others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) JUDICIAL OVERSIGHT YEAS 8 NAYS 2
- (2) CRIMINAL JUSTICE APPROPRIATIONS YEAS 10 NAYS 2
- (3) COUNCIL FOR SMARTER GOVERNMENT YEAS 10 NAYS 2
- (4)
- (5)

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

Chapter 318, F.S., provides for the disposition of civil penalties collected by the county court due to traffic infractions. Twelve dollars and fifty cents is deducted from penalties collected from each moving violation to fund that county's participation in an intergovernmental radio program. If the county does not participate in such a program, the \$12.50 must be distributed to the municipality in which the violation occurred or to the county if the violation occurred in an unincorporated area.

This bill provides that if a municipality within a county maintains an 800 megahertz radio communication program independent of the county which can communicate with the county system, funds collected within the territorial jurisdiction of the municipality must be distributed to the municipality in which the violation occurred.

The bill further authorizes the Department of Highway Safety and Motor Vehicles or the court with the ability to prepare a traffic school reference guide which lists the benefits of attending a driver improvement school and which contains the names and phone numbers of each fully-approved course provider.

This bill has an indeterminate fiscal impact on state and local governments.

The bill takes effect July 1, 2002

CS/SB 1554 passed the Senate on March 20, 2002. On March 20, 2002, CS/SB 1554, 1st Eng., was substituted for CS/CS HB 571, 1st Eng., which was laid on the table. CS/SB 1554, 1st Eng., passed the House on March 20, 2002. On June 5, 2002, the Governor vetoed CS/SB 1554, 1st Eng. This analysis, with certain exceptions, is of CS/SB 1554, 1st Eng. The exceptions are those sections that address the House bill, which are clearly identified.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 318, F.S., governs the disposition of traffic infractions. Section 318.21, F.S., provides for the disposition of civil penalties collected by the county court due to traffic infractions. Section 321.21(10), F.S., provides that \$12.50 of the penalties collected for a moving violation is paid to fund that county's participation in an intergovernmental radio program approved by the Department of Management Services. If the county does not participate in such a program, the \$12.50 is used to fund local law enforcement automation, and must be distributed to the municipality or special improvement district in which the violation occurred or the county if the violation occurred in an unincorporated area. See s. 321.21(10), F.S.

In 1988, the Legislature implemented a pilot project to initiate a joint radio communications system to serve law enforcement in the southeast portion of the state and permit radio communications between different law enforcement agencies.¹ In 1992, legislation was passed allowing a \$12.50 charge to fund intergovernmental radio programs in all counties. According to information provided by the Department of Management Services, 64 of Florida's counties participate in the program.

In 2001, ch. 2001-122, L.O.F., amended s. 318.21, F.S. Effective March 2, 2002, s. 321.21(10), F.S., is renumbered as s. 318.21(9), F.S.

During the 2001 legislative session, the Legislature passed CS/SB 800. The bill amended s. 318.21(10), F.S., to provide that if a municipality has been in a state of financial emergency during the preceding five years, has had a financial emergencies board established, and maintains a radio communications program independent of the county, then \$12.50 from each moving violation could be distributed to the municipality where the violation occurred rather than going to the county. At the time CS/SB 800 was passed, it applied only to the City of Miami and Miami-Dade County. The Governor vetoed CS/SB 800, noting that "[p]iecemeal and ad hoc changes to the delivery of services by county and city government without a broader statewide view could lead to inequities among communities and fragmented delivery of services. It may well be time for the Legislature to revisit such policies, however, it should be done through a deliberative statewide process."²

¹ Final Report on the Joint Task Force Statewide Law Enforcement Radio System Pilot Project, submitted 12/1/1994.

² Governor's Veto Message, dated June 15, 2001.

Regarding driver improvement schools, current law (s. 318.1451, F.S.) expressly prohibits any governmental entity or court from providing any information or course providers with the exception of directing inquiries to the local telephone directory.

C. EFFECT OF PROPOSED CHANGES:

This bill amends s. 318.21(9), F.S., as amended by ch. 2001-122, L.O.F.³, to provide that if a municipality within a county maintains a radio communication program independent 800 megahertz radio communication program which can communicate with the county's system or if the mutual aid channels are compatible, funds collected within the territorial jurisdiction of the municipality must be distributed to the municipality in which the violation occurred to fund local law enforcement automation. CS/SB 1554, 1st Eng., directs that funds collected from violations that occurred on an interstate highway or the Florida Turnpike be deposited in the Grants and Donations Trust Fund within the Florida Department of Law Enforcement. The House bill did not contain this provision.

The bill authorizes the Department of Highway Safety and Motor Vehicles or the court to prepare a traffic school reference guide which lists the benefits of attending a driver improvement school and which contains the names and phone numbers of each fully-approved course provider.

D. SECTION-BY-SECTION ANALYSIS:

See "Present Situation" and "Effect of Proposed Changes"

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. See "Fiscal Comments."

2. Expenditures:

Indeterminate. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. See "Fiscal Comments."

2. Expenditures:

Indeterminate. See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

³ Chapter 2001-122, L.O.F., is effective March 1, 2002. When it becomes effective, the current s. 318.21(10), F.S., will be renumbered as s. 318.21(9), F.S.

D. FISCAL COMMENTS:

This bill's fiscal impact on counties and municipalities is indeterminate. If a municipality maintains a radio communication program independent of the county, funds collected within the territorial jurisdiction of the municipality will be distributed to the municipality rather than the county. This could result in a shift of funds to municipalities that currently go to the counties. In 2000, approximately 2.2 million traffic citations for moving violations were issued in Florida. If \$12.50 were collected from each citation, approximately \$27.5 million would be generated under s. 318.21(10), F.S. However, the amount collected is not known and the amount that would be shifted from counties to municipalities is also indeterminate.

Furthermore, CS/CS/HB 571 provides that the Department of Highway Safety and Motor Vehicles or the court may prepare a driver improvement school reference guide which is available to the public. The fiscal impact of providing this service, which would be optional, is indeterminate.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

On June 5, 2002, the Governor vetoed CS\SB 1554, 1st Eng. In his veto message, the Governor explained:

I have given careful consideration to both the cities and the counties that voiced their opinions on this issue. It is unfortunate that a chasm still exists at a time when our awareness and need for emergency response and emergency services are heightened. In light of the recent terrorist events, I feel even more strongly that governmental entities at the state, county and city levels should work together to provide emergency operation services to the citizens and visitors in our state. I do not want to create unintended consequences which may impede our ability to build an intergovernmental radio communication system by redirecting funds away from the program.

In both natural and man-made disasters, mutual-aid capability is essential for responding to the needs of the impacted communities.

It may well be time to revisit this policy in a more deliberative, inclusive manner. Palm Beach County and its municipalities have found a way to resolve this issue by instituting an interagency agreement between the county and municipalities. In this instance, the parties negotiated a solution to ensure each can continue to meet its current obligations and begin to address the burgeoning need for enhancements to law enforcement communication and other automation projects.⁴

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A traveling amendment to HB 571 adopted by the Committee on Judicial Oversight clarified that funds collected within the territorial jurisdiction of a municipality that does not have a radio communication system independent of the county will continue to go to the county. Funds collected in the territorial jurisdiction of municipalities that have independent radio communication systems will go to those municipalities. The Criminal Justice Appropriations Committee also adopted an amendment allowing the court to prepare traffic school reference guides with contact information. The Criminal Justice Appropriations Committee rolled the text of these two amendments into the bill and adopted it as a committee substitute.

On March 1, 2002, the Council for Smarter Government adopted an amendment to permit a municipality that maintains “an independent 800 megahertz radio communication program, which can communicate with the county’s system or if the mutual-aid channels are compatible” to keep the funds collected for violations occurring in the territorial jurisdiction of the municipality. The bill was then reported favorably as a committee substitute.

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

L. Michael Billmeier, Jr.

Staff Director:

Nathan L. Bond

AS REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

L. Michael Billmeier, Jr.

Council Director:

Don Rubottom

⁴ Governor’s Veto Message, dated June 5, 2002.

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

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L. Michael Billmeier, Jr., J.D.

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